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July 28, 2023

The Honorable Christopher J. Burke
United States Magistrate Judge
United States District Court
for the District of Delaware
844 North King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: *Diogenes Limited and Colossus (IOM) Limited v. DraftKings, Inc.*,
C.A. No. 21-1695 (MN) (CJB)

Dear Judge Burke:

The parties in the above-referenced matter write to request the scheduling of a discovery teleconference.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on the following date: July 12, 2023.

Delaware Counsel: Stephanie O'Byrne for Plaintiffs ("Colossus") and Cindy Cucuzzella for Defendant ("DraftKings").

Lead Counsel: Brian Biggs and Stephanie O'Byrne for Colossus, and Hopkins Guy and Jamie Lynn for DraftKings.

The disputes requiring judicial attention are listed below:

1. Whether Colossus should be compelled by a date certain to supplement its response to DraftKings' Interrogatory No. 1 related to 35 U.S.C. § 101 and why the remaining claims in the case are colorably different from those already dismissed as patent ineligible.
2. Whether Colossus should be compelled to withdraw claims prior to the April 3, 2024 deadline for Colossus' second election of asserted claims in view of the prior dismissal of U.S. Patent No. 8,721,439 as patent ineligible.

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Colossus' position is that the issues are not ripe for the Court's consideration. Colossus agreed to supplement its response to DraftKings' Interrogatory No. 1 and consider a stay or additional narrowing of asserted claims after an IPR institution decision of U.S. Patent No. 11,200,779. A decision is due before August 15, 2023.

Respectfully,

/s/ Rodger D. Smith II

Rodger D. Smith II (#3778)

RDS/bac

cc: Clerk of the Court (via hand delivery)
All Counsel of Record (via electronic mail)